

HB4687



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4687

Introduced 1/12/2006, by Rep. Marlow H. Colvin - Karen A. Yarbrough

SYNOPSIS AS INTRODUCED:

815 ILCS 505/2MM

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that a consumer (instead of a consumer who is the victim of identity theft) may place a security freeze on his or her credit account. Effective immediately.

LRB094 18204 LCT 53883 b

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by changing Section 2MM as follows:

6 (815 ILCS 505/2MM)

7 Sec. 2MM. Verification of accuracy of credit reporting
8 information used to extend consumers credit and security freeze
9 on credit report for all consumers ~~identity theft victims.~~

10 (a) A credit card issuer who mails an offer or solicitation
11 to apply for a credit card and who receives a completed
12 application in response to the offer or solicitation which
13 lists an address that is not substantially the same as the
14 address on the offer or solicitation may not issue a credit
15 card based on that application until reasonable steps have been
16 taken to verify the applicant's change of address.

17 (b) Any person who uses a consumer credit report in
18 connection with the approval of credit based on the application
19 for an extension of credit, and who has received notification
20 of a police report filed with a consumer reporting agency that
21 the applicant has been a victim of financial identity theft, as
22 defined in Section 16G-15 of the Criminal Code of 1961, may not
23 lend money or extend credit without taking reasonable steps to
24 verify the consumer's identity and confirm that the application
25 for an extension of credit is not the result of financial
26 identity theft.

27 (c) A consumer ~~who has been the victim of identity theft~~
28 may place a security freeze on his or her credit report by
29 making a request in writing by certified mail to a consumer
30 credit reporting agency ~~with a valid copy of a police report,~~
31 ~~investigative report, or complaint that the consumer has filed~~
32 ~~with a law enforcement agency about unlawful use of his or her~~

1 ~~personal information by another person.~~ A credit reporting
2 agency shall not charge a fee for placing, removing, or
3 removing for a specific party or period of time a security
4 freeze on a credit report. A security freeze shall prohibit,
5 subject to the exceptions under subsection (i) of this Section,
6 the credit reporting agency from releasing the consumer's
7 credit report or any information from it without the express
8 authorization of the consumer. When a security freeze is in
9 place, information from a consumer's credit report shall not be
10 released to a third party without prior express authorization
11 from the consumer. This subsection does not prevent a credit
12 reporting agency from advising a third party that a security
13 freeze is in effect with respect to the consumer's credit
14 report.

15 (d) A credit reporting agency shall place a security freeze
16 on a consumer's credit report no later than 5 business days
17 after receiving a written request from the consumer.

18 (e) The credit reporting agency shall send a written
19 confirmation of the security freeze to the consumer within 10
20 business days and shall provide the consumer with a unique
21 personal identification number or password, other than the
22 consumer's Social Security number, to be used by the consumer
23 when providing authorization for the release of his or her
24 credit for a specific party or period of time.

25 (f) If the consumer wishes to allow his or her credit
26 report to be accessed for a specific party or period of time
27 while a freeze is in place, he or she shall contact the
28 consumer credit reporting agency, request that the freeze be
29 temporarily lifted, and provide the following:

30 (1) Proper identification;

31 (2) The unique personal identification number or
32 password provided by the credit reporting agency; and

33 (3) The proper information regarding the third party or
34 time period for which the report shall be available to
35 users of the credit report.

36 (g) A credit reporting agency may develop procedures

1 involving the use of telephone, fax, the Internet, or other
2 electronic media to receive and process a request from a
3 consumer to temporarily lift a freeze on a credit report
4 pursuant to subsection (f) in an expedited manner.

5 (h) A credit reporting agency that receives a request from
6 a consumer to temporarily lift a freeze on a credit report
7 pursuant to subsection (f), shall comply with the request no
8 later than 3 business days after receiving the request.

9 (i) A credit reporting agency shall remove or temporarily
10 lift a freeze placed on a consumer's credit report only in the
11 following cases:

12 (1) upon consumer request, pursuant to subsection (f)
13 or subsection (1) of this Section; or

14 (2) if the consumer's credit report was frozen due to a
15 material misrepresentation of fact by the consumer.

16 If a consumer credit reporting agency intends to remove a
17 freeze upon a consumer's credit report pursuant to this
18 subsection, the consumer credit reporting agency shall notify
19 the consumer in writing prior to removing the freeze on the
20 consumer's credit report.

21 (j) If a third party requests access to a credit report on
22 which a security freeze is in effect, and this request is in
23 connection with an application for credit or any other use, and
24 the consumer does not allow his or her credit report to be
25 accessed for that specific party or period of time, the third
26 party may treat the application as incomplete.

27 (k) If a consumer requests a security freeze, the credit
28 reporting agency shall disclose to the consumer the process of
29 placing and temporarily lifting a security freeze, and the
30 process for allowing access to information from the consumer's
31 credit report for a specific party or period of time while the
32 freeze is in place.

33 (l) A security freeze shall remain in place until the
34 consumer requests that the security freeze be removed. A credit
35 reporting agency shall remove a security freeze within 3
36 business days of receiving a request for removal from the

1 consumer, who provides both of the following:

2 (1) Proper identification; and

3 (2) The unique personal identification number or
4 password provided by the credit reporting agency.

5 (m) A consumer credit reporting agency shall require proper
6 identification of the person making a request to place or
7 remove a security freeze.

8 (n) The provisions of subsections (c) through (m) of this
9 Section do not apply to the use of a consumer credit report by
10 any of the following:

11 (1) A person or entity, or a subsidiary, affiliate, or
12 agent of that person or entity, or an assignee of a
13 financial obligation owing by the consumer to that person
14 or entity, or a prospective assignee of a financial
15 obligation owing by the consumer to that person or entity
16 in conjunction with the proposed purchase of the financial
17 obligation, with which the consumer has or had prior to
18 assignment an account or contract, including a demand
19 deposit account, or to whom the consumer issued a
20 negotiable instrument, for the purposes of reviewing the
21 account or collecting the financial obligation owing for
22 the account, contract, or negotiable instrument. For
23 purposes of this subsection, "reviewing the account"
24 includes activities related to account maintenance,
25 monitoring, credit line increases, and account upgrades
26 and enhancements.

27 (2) A subsidiary, affiliate, agent, assignee, or
28 prospective assignee of a person to whom access has been
29 granted under subsection (f) of this Section for purposes
30 of facilitating the extension of credit or other
31 permissible use.

32 (3) Any state or local agency, law enforcement agency,
33 trial court, or private collection agency acting pursuant
34 to a court order, warrant, or subpoena.

35 (4) A child support agency acting pursuant to Title
36 IV-D of the Social Security Act.

1 (5) The relevant state agency or its agents or assigns
2 acting to investigate Medicaid fraud.

3 (6) The Department of Revenue or its agents or assigns
4 acting to investigate or collect delinquent taxes or unpaid
5 court orders or to fulfill any of its other statutory
6 responsibilities.

7 (7) The use of credit information for the purposes of
8 prescreening as provided for by the federal Fair Credit
9 Reporting Act.

10 (8) Any person or entity administering a credit file
11 monitoring subscription service to which the consumer has
12 subscribed.

13 (9) Any person or entity for the purpose of providing a
14 consumer with a copy of his or her credit report upon the
15 consumer's request.

16 (o) If a security freeze is in place, a credit reporting
17 agency shall not change any of the following official
18 information in a credit report without sending a written
19 confirmation of the change to the consumer within 30 days of
20 the change being posted to the consumer's file: (i) name, (ii)
21 date of birth, (iii) Social Security number, and (iv) address.
22 Written confirmation is not required for technical
23 modifications of a consumer's official information, including
24 name and street abbreviations, complete spellings, or
25 transposition of numbers or letters. In the case of an address
26 change, the written confirmation shall be sent to both the new
27 address and to the former address.

28 (p) The following entities are not required to place a
29 security freeze in a credit report, provided, however, that any
30 person that is not required to place a security freeze on a
31 credit report under paragraph (3) of this subsection, shall be
32 subject to any security freeze placed on a credit report by
33 another credit reporting agency from which it obtains
34 information:

35 (1) A check services or fraud prevention services
36 company, which issues reports on incidents of fraud or

1 authorizations for the purpose of approving or processing
2 negotiable instruments, electronic funds transfers, or
3 similar methods of payment.

4 (2) A deposit account information service company,
5 which issues reports regarding account closures due to
6 fraud, substantial overdrafts, ATM abuse, or similar
7 negative information regarding a consumer to inquiring
8 banks or other financial institutions for use only in
9 reviewing a consumer request for a deposit account at the
10 inquiring bank or financial institution.

11 (3) A credit reporting agency that:

12 (A) acts only to resell credit information by
13 assembling and merging information contained in a
14 database of one or more credit reporting agencies; and

15 (B) does not maintain a permanent database of
16 credit information from which new credit reports are
17 produced.

18 (q) For purposes of this Section:

19 "Extension of credit" does not include an increase in an
20 existing open-end credit plan, as defined in Regulation Z of
21 the Federal Reserve System (12 C.F.R. 226.2), or any change to
22 or review of an existing credit account.

23 "Proper identification" means information generally deemed
24 sufficient to identify a person. Only if the consumer is unable
25 to reasonably identify himself or herself with the information
26 described above, may a consumer credit reporting agency require
27 additional information concerning the consumer's employment
28 and personal or family history in order to verify his or her
29 identity.

30 (r) Any person who violates this Section commits an
31 unlawful practice within the meaning of this Act.

32 (Source: P.A. 93-195, eff. 1-1-04; 94-74, eff. 1-1-06.)

33 Section 99. Effective date. This Act takes effect upon
34 becoming law.